

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
vs.) Case No. 08-03044-01/02-CR-S-GAF
)
)
DIONEL BARRIOS-FRAIRE,)
and)
ANA ELDA BARRIOS,)
)
Defendants.)

ORDER

This matter is before the Court on the Motion of the United States for a Preliminary Order of Forfeiture. The Forfeiture Allegation of the Indictment in this case sought forfeiture of approximately \$3,853 in United States currency seized from defendant Dionel Barrios-Fraire on April 25, 2008, as property, constituting, derived from, or traceable to proceeds obtained directly or indirectly from the commission of the offense alleged in Count One of the Indictment.

On August 7, 2008, defendants Dionel Barrios-Fraire and Ana Elda Barrios each entered into separate Plea Agreements with the United States wherein they agreed to plead guilty to the offense contained in Count One of the Indictment, and to forfeit to the United States the property listed in the Forfeiture Allegation of the Indictment.

On August 22, 2008, this Court accepted defendant Dionel Barrios-Fraire's guilty plea as to Count One and his admission as to the facts of the Forfeiture Allegation. On August 22, 2008, this Court accepted defendant Ana Elda Barrios' guilty plea as to Count One and her admission as to the facts of the Forfeiture Allegation.

The Court has determined, based upon the evidence set forth in the Plea Agreements, that the United States has established the requisite nexus between the described property and the offense to which the defendants have pled guilty.

By virtue of the Plea Agreements, the United States is now entitled to a Preliminary Order of Forfeiture and to possession of the property pursuant to 21 U.S.C. § 853(n).

Accordingly, it is hereby ORDERED:

1. Based upon the Plea Agreements and the Forfeiture Allegation contained in the Indictment, the approximately \$3,853 in United States currency seized from Barrios-Fraire on April 25, 2008, is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n).

2. Upon Entry of this Order, the United States or its designee is authorized to seize the above-described property in accordance with Fed. R. Crim. P. 32.2(b)(3).

3. Pursuant to 21 U.S.C. § 853(n), the United States shall publish for 30 consecutive days on the Internet site www.forfeiture.gov, notice of the Court's Order, notice of the United States' intent to dispose of the property in such manner as the Attorney General may direct and notice that any person, other than defendants Dionel Barrios-Fraire and Ana Elda Barrios, having or claiming a legal interest in the property must file a petition with the Court (and serve a copy on Robyn L. McKee, Assistant United States Attorney) within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. This notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property and any additional facts supporting the petitioner's claim and the relief sought. The United States may

also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the Preliminary Order of Forfeiture, as a substitute for published notice as to those persons so notified.

4. Pursuant to Fed. R. Crim. P. 32.2(b)(3), this Preliminary Order of Forfeiture shall become final as to the defendants at the time of sentencing (or before if the Defendants consent) and shall be made part of the sentence and included in the judgment.

5. The United States may conduct any discovery it considers necessary to identify, locate, or dispose of the property subject to forfeiture or substitute assets for such property.

6. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture in which all interests will be addressed.

s/ Gary A. Fenner

Gary A. Fenner, Judge
United States District Court

DATED: October 21, 2009